

RECEIVED

SEP 22 1995

BEFORE THE

Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of)	
)	
Amendment of the Commission's)	PR Docket No. 92-257
Rules Concerning Maritime)	FURTHER NOTICE OF
Communications)	PROPOSED RULEMAKING

**COMMENTS OF
AMERICAN COMMERCIAL BARGE LINE COMPANY
AND
WATERWAY COMMUNICATIONS SYSTEM, INC.**

American Commercial Barge Line Company ("ACBL") and Waterway Communications Systems, Inc. ("WATERCOM") respectfully herewith submit their Comments responsive to the Commission's Further Notice of Proposed Rule Making, looking toward updating and modernizing the rules governing the Maritime Radio Services.^{1/}

I. STATEMENT OF INTEREST.

WATERCOM is the licensee of the Automated Maritime Telecommunications System which operates on the Mississippi, Illinois and Ohio Rivers and the Gulf Intracoastal Waterway. The WATERCOM AMTS provides direct dial radiotelephone service, including facsimile and data communications capabilities, to the maritime user community operating along

^{1/} 20 FCC Rcd 5725 (1995).

No. of Copies rec'd
List ABCDE

044

the inland maritime transportation network comprised of the Mississippi River and its connecting waterways. WATERCOM also operates VHF and MF/HF public coast station facilities in the vicinity of Louisville, Kentucky.

American Commercial Barge Line Company is one of the largest waterborne transportation companies operating along the inland waterways. As such, ACBL is a major operator of tow boats and barges, and it necessarily relies upon maritime communications facilities to operate in a safe and efficient manner. ACBL operates numerous private coast stations along the Mississippi River transportation corridor.

WATERCOM and ACBL are pleased to submit their comments to the Commission in response to the Commission's proposed revision of the policies and regulations governing maritime telecommunications. The comments set forth below address only those issues of particular importance to ACBL and/or WATERCOM.

II. COMMENTS

ACBL/WATERCOM'S comments on the series of issues and areas of regulation addressed by the Commission are set forth in the order in which the topics are presented in the Further Notice.

A. Digital Selective Calling (DSC).

ACBL/WATERCOM'S interest in the DSC issue as presented in the Further Notice relate both to the shipboard impact and from the perspective of WATERCOM's operation of commercial mobile radio services, both the AMTS and VHF maritime stations. From the AMTS perspective, inasmuch as there is no distress function in the 216-220 MHz band, WATERCOM assumes that proposed Section 80.203, with reference to "VHF transmitters," does not embrace the AMTS. It would be helpful if the Commission were to so clarify, at the very least in the Report to be issued in this proceeding, if not in the rules themselves. The same consideration applies with regard to Section 80.255 of the Commission's rules setting forth "Requirements for selective calling equipment."

With regard to the VHF maritime service, ACBL and WATERCOM have no objection to the Commission's proposal that DSC be mandatory in new VHF equipment for distress alerting purposes.

E. Permissible Communications.

WATERCOM continues to support the expansion of permissible communications to allow maritime facilities to utilize excess capacity to serve non-maritime users. Relaxation of this limitation is long overdue.

With regard to the Commission's proposal to rescind the channel loading requirements specified in Section 80.371(c) of the rules,^{2/} WATERCOM fails to understand the rationale behind the Commission's proposal. Channel loading to justify additional channel authorization is commonly required throughout the wireless services, both private and commercial. Query: Under what circumstances would a licensee procure additional channel authority and invest the capital for the required operating equipment if the licensee could not justify that investment in terms of channel utilization or congestion? Perhaps, as intimated in the text, the additional channel justification procedure may warrant fine-tuning; however, the underlying principle of anti-warehousing should be preserved. In any event, all VHF public coast station licensees will receive increased operating authority through the channel-splitting of the VHF maritime frequencies which is contemplated in the near future.^{3/} This should to some extent satisfy needs for additional operating channels.

^{2/} Further Notice at ¶ 24.

^{3/} See Further Notice at ¶ 29.

F. Intra-Service Frequency Sharing.

The Commission proposes to abolish the commercial/non-commercial categorization of VHF channels due to the growth of recreational boating.

ACBL and WATERCOM reiterate the position expressed in response to the Notice of Inquiry in this proceeding that opening the currently designated "commercial" channels to recreational vessel traffic will pose major safety risks in the inland and coastal waters.

Towing vessel operations are materially different from recreational boating. Line-haul tow boats operate with 3500-10,000 horsepower, may be as long as 190 feet, and carry a crew of up to 12 members. An individual towing vessel may be controlling 40 or more barges, each of which may contain up to 1500 tons of chemicals, coal, grain or other commodities. A tow configuration may range up to 1700 feet in length and 150 feet or more in width. Safety is a prime concern in the management of towing operations.

Towing vessel operations entail an obvious requirement for a high degree of operational control to assure safety of personnel and property. Radio communication is extremely important in management of these operations. This may entail movement of barges to the boat to add to a tow, decoupling of barges from the tow at destination, and movement of the barges for tow make-up and configuration.

Harmful interference during a critical operational phase can place crew members in jeopardy, and further threaten damage to a barge which, particularly if loaded with chemical products, may pose a potential risk of injury to others on the waterway and even to those on shore.

The concept that "single channels be designated for specific regional needs, such as towing operations," is not a solution to the barge and towing industry's operational requirements. Frequency congestion inevitably occurs in major population areas; and it is in such areas where the concentration of industry results in a high volume of commercial maritime operations and also where recreational boating is most active. Changing the labels and reducing the number of channels dedicated to commercial maritime operations is an open invitation to disaster, not a solution to the recreational boaters' congestion problems.

An alternative to the proposal advanced in the Further Notice is to allow individual channels to be designated "Commercial/Non-commercial" in a local or regional area after due notice locally and with the recommendation of the Commission's field office and the Compliance and Information Bureau. This would allow a local solution in an area such as Chesapeake Bay or Key West, where recreational boating is particularly active and commercial operations are at a relatively low level without threatening safety in areas of

peak commercial operations such as Houston, New Orleans, and St. Louis.

The maritime service suffers from congestion, and it has suffered from congestion for a number of years. Until channel-splitting can be approved and implemented, ACBL submits that reallocating channels from commercial to recreational boat operations, and thereby depriving commercial operators of channels required for vessel operations, is not in the public interest. It would be anomalous for the Commission to mandate upgrading of equipment through DSC installation for distress communications while degrading the channels available for commercial vessel operations in order to satisfy recreational boating needs.

G. Trunking.

The Commission has appropriately concluded that there are insufficient channels to warrant provision for trunking in the VHF maritime service. Trunking has been successful in the private land mobile services where trunking technology has been implemented on newly opened frequency bands which permit channels to be aggregated and managed to comply with trunking requirements. The paucity of channels and the sharing of those channels within the maritime

services makes trunking only a theoretical concept which is not ripe for further consideration.

I. Mobile Sharing of Private Land Mobile Frequencies.

ACBL and WATERCOM support the Commission's proposal to allow maritime users to share private land mobile frequencies. There should be no argument about this proposal in light of the Commission's First Report and Order in this proceeding allowing land mobile users to share maritime frequencies. Said provisions may enable a maritime interest, whether it be a commercial operator or a boating club, to achieve relief from congestion on the VHF maritime frequencies.

M. Other Issues.

Coast station operator licensing: WATERCOM appreciates the Commission's recognition that the operator licensing requirements are burdensome and serve no meaningful public purpose. WATERCOM continues to support rescission of the operator licensing requirements.

Vessel station operation licensing: Ship station operator licensing is another hold-over from a prior era from the standpoint of both regulatory philosophy and equipment technology. Specifically, for vessels engaged in domestic commerce which are subject to the Bridge-to-Bridge

Act, a vessel must have on board a radio operator who holds a restricted radiotelephone operator permit or higher class of license. ^{4/} A voluntarily equipped vessel utilizing the same radio equipment which is not subject to the Bridge-to-Bridge Act travelling only in domestic waters need not have a licensed operator on board.^{5/} Nor is an operator required to install VHF transmitter equipment in a ship station, or to install radar on a voluntarily equipped ship, or to operate most coast station equipment.^{6/} "No operator license or permit is required for the operation, maintenance, or repair of stations licensed under [Part 90]"^{7/}; and similarly, "No operator's license is required for a person to operate or perform maintenance on the facilities authorized in these [public mobile] radio services."^{8/} It is anomalous, as well as burdensome, to require vessel station operators whose vessels operate only in domestic waters to comply with vessel station operator licensing when no other similarly situated licensee must meet such a requirement. There is no benefit in continuing

^{4/} 47 C.F.R. § 80.163.

^{5/} 47 C.F.R. § 80.177(a)(5).

^{6/} 49 C.F.R. § 80.179(b)-(d).

^{7/} 47 C.F.R. § 90.433.

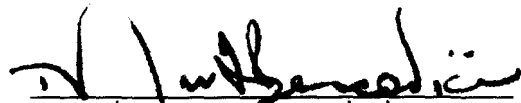
^{8/} 47 C.F.R. § 22.205(a).

this requirement, and ACBL/WATERCOM urge the Commission to exempt all vessels not otherwise governed by treaty from operator requirements.

Associated coast station units: WATERCOM and ACBL support the proposal to relax the regulations to permit portable radios to be utilized as an "associated coast-station" license. It is common in port areas and at docks for operating personnel to communicate with the vessel to be/being serviced, and also to communicate during servicing with the office; and the Commission's proposal will provide more flexibility in the licensing of such facilities.

WHEREFORE, THE PREMISES CONSIDERED, American Barge Line Company and Waterway Communications System, Inc., respectfully urge the Federal Communications Commission to adopt changes to the maritime services regulations as discussed above, but to *retain* the current commercial/non-commercial VHF radio frequency categories of service.

Respectfully Submitted,



Martin W. Bercovici
Keller and Heckman
1001 G Street, N.W. Suite 500W
Washington, D.C. 20001-4545
(202) 434-4200
Attorney for
American Commercial Barge Line
Company and
Waterway Communications System, Inc.

September 22, 1995